



4310-DQ

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8365

[17X.LLUTW01100.L12200000.AL0000]

**Prohibition of Target Shooting on Public Lands in the Eastern Lake Mountains,
Utah County, Utah**

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final supplementary rule.

SUMMARY: The Bureau of Land Management (BLM) Utah State Director hereby establishes an interim final supplementary rule (rule) prohibiting target shooting within a 2,004-acre area on BLM-administered public lands in the Eastern Lake Mountains area of the Salt Lake Field Office, Eastern Lake Mountains, Utah County, Utah. The rule is necessary to implement and enforce this long-term prohibition to provide for public safety and historic properties (specifically Native American petroglyphs), as authorized in the Decision Record for the Eastern Lake Mountains Target Shooting Resource Management Plan Amendment (RMPA). The rule does not restrict other public activities in or access to or through the Lake Mountains, including legal hunting.

DATES: The rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. You may submit comments to the BLM on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods:

Mail: Bureau of Land Management, Attention: Matt Preston, Salt Lake Field Office,
2370 South Decker Lake Boulevard, West Valley City, Utah 84119.

Email: blm_ut_sl_comments@blm.gov

NEPA Register: <https://go.usa.gov/xXBNF>

The environmental assessment, Decision Record, and RMPA are available for public review at the mailing and NEPA Register website addresses in this section.

FOR FURTHER INFORMATION CONTACT: Matt Preston, BLM Salt Lake Field Manager, Bureau of Land Management at 801-977-4300. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual. The FRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM is establishing this rule under the authority of 43 Code of Federal Regulations (CFR) 8365.1-6, which allows State Directors to establish supplementary rules for the protection of persons, property, and the public lands and resources. This provision allows the BLM to issue rules of less than national effect by publishing the rule in the *Federal Register*, but without codifying it in the CFR. This rule applies to 2,004 acres of public lands managed by the BLM Salt Lake Field Office in the Eastern Lake Mountains within Utah County, Utah.

This Notice and the map of the affected area can be obtained by visiting or contacting the Salt Lake Field Office (see ADDRESSES). The BLM will post this Notice and the map to the National Environmental Policy Act (NEPA) Register (see ADDRESSES).

I. Public Comment Procedures

Please submit your written comments on issues related to this rule to one of the addresses shown in the ADDRESSES section above. Comments on the rule should be specific, confined to issues pertinent to the rule, and explain the reason for any recommended change. Comments requesting changes to the Decision Record, environmental assessment, or the RMPA are outside the scope of this rule.

The BLM is not obligated to consider, or include in the Administrative Record for the rule, comments delivered to an address other than those listed above (see ADDRESSES), or comments that the BLM receives after the close of the comment period (see DATES), unless they are postmarked or electronically dated before the deadline.

The BLM will make your comments, including your name and address, available for public review at the Salt Lake Field Office address listed in ADDRESSES above during regular business hours (8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays). Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask the BLM in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

II. Discussion of Interim Final Supplementary Rule

The rule is necessary to implement and enforce the long-term target shooting closure authorized in the Decision Record for the Eastern Lake Mountains Target Shooting RMPA. The long-term closure covers 2,004 acres of public lands in Utah County, Utah.

This rule replaces and expands the previous target shooting closure orders implemented by the BLM in the Eastern Lake Mountains since 2012 (81 FR 90864, 79 FR 74111, 77 FR 75186). The expanded closure area identified in this supplementary rule is necessary in order to provide additional protection for public health and safety to those who may be endangered by target shooting and for protection of historic properties (specifically Native American petroglyphs) damaged by target shooting, outside the previous closure area.

The BLM determined that a long-term target shooting closure was necessary due to a variety of concerns, including: several serious public safety incidents of errant gunfire endangering lives and property, the high incidence of target shooting-caused wildfires annually, documented and irreparable damage to historic properties (specifically Native American petroglyphs), and the large amounts of litter and hazardous waste that result from target shooting. In addition, the area is not considered safe for target shooting due to the lack of proper backstops in lower elevations, nearby homes, and its proximity to State Highway 68. Public outreach and education efforts to address these problems have not been successful.

The BLM has determined that this rule is necessary to allow immediate implementation of the long-term closure, thereby providing for public safety and protection of important historic and pre-historic properties.

In accordance with section 553(b)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)), the BLM finds good cause that publishing a proposed supplementary rule, accepting public comment on the proposed supplementary rule, and then, publishing a final supplementary rule are contrary to the public interest. The urgency and magnitude

of the need to reduce the risks to public safety and health, and historic properties (specifically Native American petroglyphs) associated with target shooting in the Eastern Lake Mountains warrants expedited action. Furthermore, the planning process for the Eastern Lake Mountains Target Shooting RMPA offered extensive opportunities for public comment, including public notices, an extended scoping period, an extended comment period, a protest period on the proposed land use plan decision, and a Governor's consistency review.

Under section 553(d)(3) of the APA (5 U.S.C. 553(d)(3)), good cause also exists for making these rules effective immediately because a variety of government and public stakeholders have asked the BLM to take immediate and affirmative action to curtail the public safety risks and the damage to historic properties (specifically Native American petroglyphs) caused by the target shooting. The environmental assessment for the RMPA discussed the need to establish a supplementary rule, and thus, the public was on notice during that process that this supplementary rule would follow completion of the RMPA. A summary of the planning process, including public participation periods, is described below in Section III. Procedural Matters, National Environmental Policy Act (NEPA). The BLM invites public comment on this interim final supplementary rule until [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If any substantive comments are received in response to this notice, the BLM will determine whether or not to modify this rule. The BLM will publish a Notice establishing the final supplementary rule only if substantive comments are received. If no substantive comments are received, the rule will become a final supplementary rule without another published notice.

III. Procedural Matters

Executive Orders 12866 and 13563 Regulatory Planning and Review

The rule prohibits target shooting on a limited area of public lands in the Eastern Lake Mountains. The rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866 or 13563. The rule would not have an annual effect of \$100 million or more on the economy; and it would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments, or communities. The rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; and it would not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs, or the rights or obligations of their recipients; nor does it raise novel legal or policy issues. This rule implements and supports enforcement of the long-term target shooting closure authorized in the Decision Record for the Eastern Lake Mountains Target Shooting RMPA.

Clarity of the Supplementary Rule

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make this rule easier to understand, including answers to questions such as the following:

- (1) Are the requirements in the rule clearly stated?
- (2) Does the rule contain technical language or jargon that interferes with its clarity?
- (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it was divided into more (but shorter) sections?

(5) Is the description of the rule in the SUPPLEMENTARY INFORMATION section of this preamble helpful in understanding the rule? How could this description be more helpful in making the rule easier to understand?

Please send any comments you have on the clarity of the rule to one of the addresses specified in the ADDRESSES section.

National Environmental Policy Act (NEPA)

The rule implements a land use plan decision to prohibit target shooting on 2,004 acres to provide for public safety and protect historic properties (specifically Native American petroglyphs) as authorized in the Decision Record for the Eastern Lake Mountains Target Shooting RMPA (DOI-BLM-UT-W010-2015-0023-EA). The BLM analyzed and disclosed the environmental consequences of the long-term target shooting closure identified in an environmental assessment completed on December 14, 2016. The BLM found that the long-term target shooting closure, including the rule, would not have a significant individual or cumulative effect on the quality of the human environment under Section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The Eastern Lake Mountains Target Shooting RMPA was initiated under a Notice of Intent published in the *Federal Register* on June 12, 2015 (80 FR 33547). A 30-day public scoping period began on June 12, 2015, with public open houses on August 4 and 5, 2015, and was subsequently extended through August 20, 2015. The BLM released the Draft RMPA and associated environmental assessment for a 30-day public comment

period beginning on April 15, 2016, with an open house on May 11, 2016; and subsequently extended the comment period through May 31, 2016. The BLM released the Proposed RMPA and associated environmental assessment for a 30-day public protest period and 60-day Governor's consistency review on December 14, 2016. The BLM informed the public of the scoping period and associated open houses, comment period and associated open house, and the protest period through news releases, NEPA register postings, BLM website postings, flyers on local bulletin boards, and public mailings to a project mailing list of more than 300 addresses.

The environmental assessment, Decision Record, and RMPA are available for public review at the locations identified in the ADDRESSES section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended (5 U.S.C. 601–612) to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This rule does not pertain specifically to commercial or governmental entities of any size, but to public recreational use of specific public lands. This rule establishes a rule of conduct for recreational use of certain public lands in the Eastern Lake Mountains. Therefore, the BLM has determined, under the RFA, that this rule would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This rule does not constitute a “major rule” as defined at 5 U.S.C 804(2). This rule establishes a rule of conduct for recreational use of certain public lands in the Eastern Lake Mountains and would not affect business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

This rule would not impose an unfunded mandate on state, local, or tribal governments or the private sector, of more than \$100 million per year; nor would it have a significant or unique effect on small governments. This rule would have no effect on governmental or tribal entities and would impose no requirements on any of these entities. This rule establishes a rule of conduct for recreational use of certain public lands in the Eastern Lake Mountains and does not affect business, commercial, or industrial use of these public lands. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

This rule does not represent a Government action capable of interfering with constitutionally protected property rights. This rule does not address property rights in any form and does not cause the impairment of anyone’s property rights. This rule establishes a rule of conduct for recreational use of certain public lands in the Eastern Lake Mountains. Therefore, the BLM has determined that this rule would not cause a “taking” of private property or require preparation of a takings assessment under this Executive Order.

Executive Order 13132, Federalism

This rule would not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule applies to a limited area of land in only one State, Utah, and would not conflict with any Utah state statute or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM has determined that this rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM consulted and coordinated with Indian tribal governments on this rule during the development of the Eastern Lake Mountains Target Shooting RMPA, which included an implementation-level decision to establish this interim final supplementary rule through publication in the *Federal Register*.

The Salt Lake Field Manager sent project information and invited the initiation of formal consultation with the following Native American Tribes via certified letter dated June 29, 2015: Jemez Pueblo, Skull Valley Band of Goshute Indians of Utah, Confederated Tribes of the Goshute Reservation, Paiute Indian Tribe, Ute Indian Tribe, and Eastern Shoshone. The BLM contacted these same tribes via phone between July 1 and 7, 2015,

to schedule telephone conferences with the Salt Lake Field Manager, if desired. The Paiute Indian Tribe requested a meeting and a presentation was made to the Paiute Tribal Council on July 16, 2015, at which the tribe expressed their support for the Eastern Lake Mountains Target Shooting RMPA. Additionally, these tribes received formal invitations to participate in the planning process as a consulting party and/or cooperating agency; none of the tribes accepted either role. These same tribes were included on the project mailing list and received notification of the scoping period and associated open houses, the public comment period and associated open house, and the protest period. Only the Paiute Indian Tribe of Utah submitted a comment letter during the public comment period expressing concern over preserving and protecting Native American petroglyphs. To discuss this in detail with the tribe, the BLM attended a Paiute Tribal Council meeting on November 1, 2016, in which the tribal leaders expressed their support for the Proposed RMPA.

The Salt Lake Field Manager and staff also attended the November 15, 2016 Utah Tribal Leaders Conference in Wendover, Nevada, at which time tribal leaders of the Confederated Tribes of the Goshute Reservation, Paiute, Ute, and Eastern Shoshone were informed of the Proposed RMPA and invited to make comments. Tribal leaders asked questions and made verbal comments in support of the Proposed RMPA. A final letter was mailed to these same tribes on December 14, 2016, inviting them to consult on the Proposed RMPA and associated environmental assessment. The BLM also contacted these tribes via telephone. No further comments were received.

Executive Order 13352, Facilitation of Cooperative Conservation

Under Executive Order 13352, the BLM has determined that this rule would not impede the facilitation of cooperative conservation. This rule would take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodate local participation in the Federal decision-making process; and provide that the programs, projects, and activities are consistent with protecting public health and safety.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule does not constitute a “significant energy action,” as defined in Executive Order 13211. The rule would not have an adverse effect on energy supplies, production, or consumption and has no connection with energy policy.

Paperwork Reduction Act

This rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

IV. Interim Final Supplementary Rule

For the reasons stated in the preamble, and under the authority of 43 CFR 8365.1-6, the State Director establishes a rule for 2,004 acres of public lands managed by the BLM in the Lake Mountains in Utah County, Utah, subject to the Pony Express Resource Management Plan, to read as follows:

Prohibited Act

Target shooting is prohibited within the area described below, including 2,004 acres, in Utah County, Utah.

Exemptions

The following persons are exempt from this rule: any Federal, state, local, and/or military employees acting within the scope of their official duties; members of any organized rescue or fire fighting force performing an official duty; and persons who are expressly authorized or approved by the BLM.

Legal Land Description

The legal description of the affected public lands is:

Salt Lake Meridian, Utah

T. 7 S., R. 1 E.,

Sec. 6, lot 1 and NE1/4SE1/4;

Sec. 7, lot 1.

T. 7 S., R. 1 W.,

Sec. 13, lots 2 thru 4, lots 9 thru 12, and W1/2;

Sec. 22, those portions of lots 5, 11, and 12 lying southwesterly of the top of a ridgeline, bears northwest and southeast, on the south side of Pfeiffer Canyon, the easterly end of the ridgeline being approximately 460 feet northerly of the south one quarter section corner of section 22 along the north-south centerline of section 22 and the westerly end of the ridgeline being approximately 1,780 feet northerly of the southwest corner of section 22 along the section line between sections 21 and 22;

Sec. 24, lots 1 thru 3, lots 10 thru 13, lots 17 and 18, and NW1/4;

Sec. 26, NW1/4NE1/4, N1/2NW1/4, and NW1/4SW1/4;

Sec. 27, SW1/4NE1/4;

Sec. 28, N1/2 and SE1/4.

The areas described contain approximately 2,004 acres.

Definition

Target shooting: the discharge or use of a firearm or other dangerous weapon (e.g. bow-and-arrows, projectile weapons, etc.) for the purposes of recreational shooting not associated with lawful hunting practices.

Enforcement

Any person who violates this rule may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0-7, or both. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Utah law.

Edwin L. Roberson

State Director

[FR Doc. 2018-19300 Filed: 9/5/2018 8:45 am; Publication Date: 9/6/2018]